

REMARKS/ARGUMENTS

Reconsideration of this application in light of the above amendments and following comments is courteously solicited.

The examiner rejected previously submitted claims 1, 4, 5, 10 and 11 under 35 U.S.C. 102(b) as being anticipated by either U.S. Patent 5,865,345 to Cistone et al. or U.S. Patent 5,076,464 to Simon. Applicant respectfully transverses the examiner's rejection for the reasons set forth hereinbelow.

With regard to U.S. Patent 5,465,345, the '345 patent does not teach a deformable tube body portion having a tube head shaped thereon and at least one partition of material disposed therein in the manner claimed in independent claim 1. The '345 patent does not disclose a tube with a partition therein but rather to coextruded and separately blow molded tubes having a common wall formed by walls of each of the separate coextruded tubes. In addition, in light of the fact that there are two coextruded tubes, the '345 patent does not teach a tube head shaped onto the body as the tube head in the '345 patent comprises two separate molded portions 22, 24 each on one of the extruded tubes, respectively. There is no partition in the '345 patent which extends within the deformable tube body. The partition comprises an outside wall of each of the extruded tube bodies. The '345 patent cannot be said to anticipate claim 1 as presented. Accordingly, Applicant respectfully requests the examiner to reconsider his rejection of claim 1 based on the '345 patent.

The '464 patent cannot be said to anticipate claim 1 as presented. In the '464 patent the partition wall is not a sheet but rather a corrugated form. There is nothing in the '464 patent to suggest a tube head being shaped onto the first end

portion. There is nothing in the '464 patent which anticipates the requirement that the sheet of the partition have a stiffness greater than that of the body portion. To the contrary, the corrugated shape of the partition wall of the '464 patent would suggest that the stiffness would not be greater than that of the body portion as claimed in independent claim 1. Accordingly, it is believed that independent claim 1 is patentably under 35 U.S.C. 102 over either the '345 or the '464 patent.

Dependent claims 2-8 contain patentable merit in their own right.

It is noted that independent claim 9 was not rejected by the examiner in the body of his rejection. However, dependent claims 10 and 11 were rejected under 35 U.S.C. 102. Accordingly, it is assumed that independent claim 9 was likewise intended to be rejected under 35 U.S.C. 102 over the '464 or '345 patents. It is respectfully submitted that this rejection is in error. All of the arguments presented above with respect to independent claim 1 are incorporated herein by reference with respect to independent claim 9. In addition, independent claim 9 has a further limitation of "a closure crimp at the second end". This limitation is not found in either the '345 or the '464 patents. Accordingly, independent claim 9 and claims 10 and 11 are believed to patentably define over either the '345 or the '464 patents.

In addition to the foregoing Applicant has added new dependent claims 12-14. The limitations of claim 12 to a tube head comprising a shoulder extending between the nozzle and a connecting portion wherein the first end of the tube body portion is fixed to the connecting portion is not shown in either of the prior art references. Claim 13 sets forth that the sheet is flat. Dependent claim 14 sets forth that the

shoulder has a thickness greater than the thickness of the tube body portion. Neither of the recitations of claim 13 and 14 are anticipated by the '345 or the '464 patents.

In light of the foregoing, Applicant respectfully requests the examiner to withdraw his rejection under 35 U.S.C. 102 and to issue a Notice of Allowance in the above case.

An earnest and thorough attempt has been made by the undersigned to resolve the outstanding issues in this case and place same in condition for allowance. If the Examiner has any questions or feels that a telephone or personal interview would be helpful in resolving any outstanding issues which remain in this application after consideration of this amendment, the Examiner is courteously invited to telephone the undersigned and the same would be gratefully appreciated.


A check in the amount of \$620.00 is enclosed herewith to cover the cost of the multiple dependent claim fees and the Three Month Extension of Time.

If any additional fees are required in connection with this case, it is respectfully requested that they be charged to Deposit Account No. 02-0184.

Respectfully submitted,

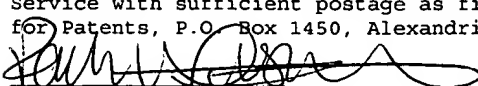
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By


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Date: August 5, 2004

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313" on August 5, 2004.


Rachel Piscitelli